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SUBJECT: RESULTS OF FINANCIAL SYSTEMS ASSESSMENT TEAM VISIT TO
SENEGAL (SECOND OF TWO CABLES)

REF: DAKAR 125

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NOTE: This cable is Part II of two-part report. See Reftel for
Part I.

FINANCIAL INSTITUTIONS ARE OBLIGED TO ACT

¶30. (U) The Uniform Law obliges the public treasury, the BCEAO, financial institutions, and "producers of business for financial institutions" to file STRs. Other obliged entities include: banks, auditors, real estate agents, notaries, dealers in high-value items, cash transporters, owners, directors, and managers of casinos and gambling establishments (including national lotteries), travel agencies, and NGOs. Members of the independent legal professions are also covered. Correspondents from other ministries and the private sector are required to collect and report financial intelligence to the CENTIF. By statute, the entire range of financial institutions are required to send STRs to the CENTIF.

¶31. (U) BCEAO examiners review AML programs (in addition to the regulatory safety and soundness examinations performed by the BC) but do not address underlying inequalities. Under the Uniform Law, each bank is required to have a compliance officer responsible for that bank's AML program. However, not all banks have designated this officer. Similarly, as of 2007, the BCEAO and the BC require an annual report on banks' AML programs, but not all banks have an AML program in place.

¶32. (SBU) The sector today lacks a uniform minimum level of understanding, knowledge, and standard of compliance requirements. Despite the regulatory framework's emphasis on AML compliance, banks and other obliged entities do not exercise Know Your Customer (KYC) measures or employ Customer Due Diligence (CDD) in any standardized manner; there is no industry-wide approach. Guidance should come from a regulator or from the Ministry of Finance but there are no guidance notes for CDD or for TR reporting, and banks follow different standards. The APBEF has not advocated for upgrades to bank monitoring and reporting. As evidenced by the few statistics reported by CENTIF (55 STRs YTD, wth 4 forwarded on to the

judiciary), there appears to be a fundamental lack of understanding by obliged entities to interpret, identify, and describe suspicious activity.

¶133. (U) There is a wide variance in training efforts and monitoring operations between branches of large international banks and Senegalese banks. Staff in Senegalese branches of large international banks receives AML/CFT training through their respective headquarters. However, in Senegalese financial institutions (without a parent company) staff have just recently begun receiving basic AML/CFT training. For these banks, more in-depth training is necessary.

¶134. (SBU) As authorities within a subsidiary of a U.S. bank, compliance officers at Senegal's Citigroup have had training and exercise due diligence measures (including a KYC program) mandated by the parent company beyond what is required. In contrast, the local BHS (also with branches in the U.S.) has to date not filed any money laundering or terrorist financing STRs. Although the compliance officer for BHS described a fairly thorough CDD and STR policy exceeding the legal requirements, disparities still exist. BHS personnel received only rudimentary training exclusively from CENTIF, but more in-depth training is necessary.

¶135. (SBU) Although its program is nascent, CENTIF has provided outreach to obligated financial sectors. CENTIF utilizes the UNODC's Computer Based Training (CBT) as its basic AML training. However, the obliged institutions expressed a need to understand the various money laundering typologies. Of particular concern to the FSAT is the apparent widespread confusion over the definition of an STR and when and why one should be filed.

TEAM RECOMMENDATIONS - REGULATORS AND BANKS

¶136. (U) The FSAT recommends that the full scope AML/CFT examinations be performed at each safety and soundness examination

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to determine compliance with rules and regulations and to ascertain the condition of the overall AML/CFT program at the institution. For supervisory bodies and regulators, experiential training is paramount. BCEAO personnel should receive more specialized training incorporating AML/CFT, bank/financial institution examinations, and analysis training. Financial forensics training may also improve the efficacy of some agencies. In order to improve efficacy, assistance to help agencies communicate with one another directly and share information is key.

¶137. (U) The FSAT recommends that all individuals responsible for filing STRs receive in-depth, specialized AML-CFT training that uses live cases and covers methods and procedures, such as how and when to file STRs, identification of suspicious activities, and collection of money laundering evidence. Training should be conducted to ensure that 100 percent of the staff is up to standard. The Team recommends that local Senegalese banks in particular be priority recipients of more specialized AML/CFT training since they do not benefit from training through a parent company.

CENTIF, THE FIU

¶138. (U) Article 16 of the Uniform Law on Money Laundering requires countries to establish a Financial Intelligence Unit (FIU). Senegal's FIU, the "Cellule Nationale de Traitement des Informations Financiers" or CENTIF, was established in August, 2004 (decree No. 2004-1150 of 18 August 2004). The CENTIF is an autonomous agency under the authority of the Ministry of Finance, and defines itself as an administrative FIU with financial and decision-making authority over its own functions. The CENTIF receives its own budget line item and so is not dependent on the Ministry of Finance budget. However, its budget is determined by top administration officials. The CENTIF has five sub-divisions, each headed by a deputy director seconded to CENTIF for a three-year term from the Ministry of Finance, Ministry of Justice, the Customs Department, and the Ministry of Interior. The BCEAO also has a representative within the leadership of the CENTIF. There are approximately 26 employees in the CENTIF, incorporating financial, investigative,

accounting, legal, and computer expertise. France is reportedly sponsoring the CENTIF for membership to the Toronto-based Egmont Group.

¶139. (U) The CENTIF has a mandate to receive, analyze, and process financial intelligence (although not necessarily to disseminate it).

Once an STR is received, CENTIF is required to provide confirmation of receipt. Incoming STRs are logged by the administrative staff and given to the analysis unit to ensure that all information is provided correctly by the reporting institutions, it is then uploaded to the database. The Secretary General then determines if the case warrants further investigation. If so, the case is sent to the Administrative and Financial Investigations Division for further study.

¶140. (SBU) The spokes of law enforcement feed into the CENTIF hub, but information does not pass back to law enforcement. Once the investigation is completed, a report goes to the Deputy Director for International Relations and Judicial Matters for a judicial opinion.

Based on his/her legal opinion, the case is either sent directly to an Examination Committee, or the case is held until further information is received. If the Committee finds that the case has merit, the report is submitted to the prosecutor, who must immediately pass it to an investigating judge. After CENTIF forwards the case to the investigative judge, there is no assurance the case will be pursued or that law enforcement entities and their investigations will benefit from the information that has been developed.

¶141. (SBU) The CENTIF receives a fairly low number of STRs, but they have increased since its March 2005 inception. That year, the unit received 11 STRs, three of which were forwarded to the investigative judge. In 2006, CENTIF received 60 STRs, eight of which were forwarded to the investigative judge. As of early November 2007, CENTIF reports that it has received 55 STRs, but only four have been forwarded beyond CENTIF. There are currently 22 cases pending judicial action. According to Citigroup, which sent a case to the

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CENTIF last year, and BHS, which has filed 30-40 STRs so far this year, the FIU acknowledges when an STR is received; however, the banks do not learn of the fate of the reports.

TEAM RECOMMENDATIONS - THE CENTIF

¶142. (SBU) Senegal's FIU has an adequate framework, but the CENTIF faces a number of hurdles in its efforts to combat money laundering and, once legislation is passed, terrorist financing. A more in-depth assessment of the FIU's actual operations and effectiveness would be valuable to determine the CENTIF's largest deficiencies before recommending a training continuum. Any training should include basic analysis and specialized AML/CFT training. The CENTIF could also use help in drafting guidance notes for reporting institutions and provide outreach to non-bank financial institutions and designated non-financial businesses and professions, such as the insurance and gaming sectors.

LAW ENFORCEMENT - CUSTOMS AGENCY

¶143. (U) The Team met with the Customs Agency, the Senegalese Tax Authority, and the Ministry of Interior, the main agencies charged with financial crime investigations. The Customs Agency has two main missions and employs inspectors, analysts, and investigators. Its primary task is as a revenue agency, with most funds coming from duties associated with imported goods. In 2007, forty seven percent of Senegal's budget was generated from Customs duties.

¶144. (SBU) As a secondary mission, Customs controls all persons and goods entering and exiting Senegal, enforces Customs laws and regulations, and interdicts contraband being brought into and out of the country. Customs performs interdiction and enforcement functions, but does not conduct complex investigations. Rather, the agency provides technical assistance regarding Customs-related investigations to other investigative entities such as the gendarmerie and Ministry of Interior. Customs works with, and has a correspondent assigned to, the CENTIF. The relationship with CENTIF

appears solid, although as of November 2007, Customs had only filed three STRs.

¶45. (SBU) Customs lacks a computer database to facilitate or record passenger analyses and inspection, although one is being created. Inspectors staff passenger processing operations, and specialized inspectors provide limited intelligence and investigative support at ports of entry (POE). There are no traditional passenger screening methods or automated criminal record and intelligence queries. Records are maintained solely as paper declarations completed by passengers. Inspections are performed on a subjective basis. Senegal's land borders are typically not patrolled by Customs officers.

¶46. (SBU) Senegal has reporting requirements for inbound and outbound currency exceeding CFA 6 million (approximately USD 14,000), but travelers are expected to self-declare if they are carrying such funds. The Immigration/Customs forms required of arriving passengers at the Dakar airport do not include declarations regarding currency or monetary instruments. Officials advised that a separate currency reporting form does exist and is to be completed at POE, but it is incumbent upon the traveler to request the relevant document from a Customs Officer and voluntarily disclose the currency. By law, inbound currency must be deposited at a financial institution within one week of entry into Senegal. This not only leaves a week without controls, but it also shifts the burden from law enforcement to financial institutions and their reporting requirements. Therefore, it is likely that significant amounts of currency are not disclosed, either due to lack of awareness of the requirement or as a result of lax enforcement.

¶47. (U) Inspection operations for inbound cargo use an automated, computer-based targeting system with a risk-based assessment program targeting specific criteria, indicating that Senegal is able to competently identify and interdict suspect importations. The seaport operation at Dakar is managed in accordance with the enforcement strategy of the agency and reflects its primary mission: to identify Customs fraud which would result in non-payment of

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duties.

¶48. (U) Because inspections focus on revenue-generating imports, no system exists for assessing exported cargo. In addition to smuggling, the lack of oversight allows for trade-based money laundering (TBML). Customs officials acknowledge that a computer system could easily be modeled on the inbound targeting system and implemented with only slight modifications.

¶49. (U) The Ministry of Finance tracks proceeds of exports. As with currency importers, exporters also must open a bank account to handle export financial transactions. It is then incumbent upon the bank to decide to file an STR. However, compliance with the suspicious transaction reporting requirement is weak. Again, as with importation of currency, this places the burden of identifying possible fraud schemes and TBML activities from law enforcement onto regulators -- from Customs onto entities with completely different mandates.

¶50. (U) Ideally, customs should collect all shipping export documents and have access to bank records through a clear legal process. The development and implementation of a computerized tracking/targeting system and intelligence database for both travelers and for outbound cargo is critical. A system modeled after its existing inbound computer based targeting system would accomplish this.

LAW ENFORCEMENT - SENEGAL TAX AUTHORITY (STA)

¶51. (U) The Senegal Tax Authority (STA) is an agency within the Ministry of Finance (MOF) that collects a range of taxes, amounting to approximately 30 percent of the government's revenue in 2007. The tax code does not address money laundering, and with a mandate to levy and collect taxes, STA does not focus on the origin of the income. The STA also administers the land tenure system, which oversees all transactions relating to land acquisition and transfer

of real estate. It is mandatory for all transactions to be registered at STA to obtain legal ownership, and STA imposes a transaction tax based on the transaction amount. Non-bank dealings comprise by far the majority of such transactions.

¶52. (U) Agents in the STA's fiscal investigations unit are involved in examinations, fiscal activities, and monitoring and cross-checking financial transactions. The STA is authorized to obtain bank records and is not subject to bank secrecy laws. The STA also has access to registries of all businesses and NGOs. However, the STA's investigations are focused on determining taxable income and tax obligations, not to detect terrorist financing or money laundering. The STA collects data beneficial to other agencies, but there is not a history of sharing this data. The STA is implementing a new database to improve transparency and better organize and manage all taxpayer information and transactions. Although there is a legal provision for real property seizure, this rarely occurs; when a target discovers his property may be seized by STA, he usually settles the tax obligation. Asset seizures are much more common by Customs at the point of importation.

¶53. (SBU) The CENTIF relies heavily on the STA for non-bank information. However, the STA correspondent to CENTIF does not analyze intelligence, but simply collects data for CENTIF and reports any suspicious activity uncovered during tax investigations.

The STA can, however, assist with investigations on behalf of the CENTIF. Upon request, the STA searches its files, conducts interviews and record checks, and provides the information to CENTIF. Since 2005, the STA correspondent has worked 19 CENTIF-directed cases. Occasionally the CENTIF-directed investigations benefit the STA by identifying individuals who may be avoiding taxes. Although the STA does not look for money laundering, it has become more aware of it through its relationship with CENTIF. The STA recognizes a need to have a better understanding of money laundering. However, to date the CENTIF has only provided two days of generalized training to STA investigators.

LAW ENFORCEMENT - MINISTRY OF INTERIOR, DEPARTMENT OF NATIONAL

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SECURITY

¶54. (U) By Law, the Ministry of Interior (MOI) has broad authority over people and activities within Senegal. In 1997, the first legal provisions relating to money laundering were written under anti-narcotics provisions. Issues surrounding terrorism and other international crime are also addressed by the Judicial Police, the Senegalese Gendarmerie, and the Department of Surveillance of National Territories (DST).

¶55. (SBU) The MOI's Narcotics Investigation Bureau can conduct investigations related to narcotics trafficking, including narcotics-related money laundering, without the permission of the Ministry of Justice, the Prosecutor, or another judicial authority. Agents can initiate investigations, make arrests, and detain suspects prior to opening an official file. They are authorized to contact banks and financial institutions directly for account information.

¶56. (SBU) The MOI maintains a working relationship with the CENTIF, but reported some difficulty in completing cases on behalf of the CENTIF when the FIU controls the flow of information. The CENTIF periodically requests the MOI to conduct checks of its investigative records to determine if the subject of an STR has a prior record. MOI has thus far been contacted by CENTIF regarding 80 potential money laundering cases.

¶57. (SBU) With the exception of narcotics-related money laundering, the MOI cannot conduct financial investigations independent of CENTIF and the Prosecutor/Investigative Judge. Thus, independently derived intelligence must be vetted through CENTIF before an investigation can commence, resulting in delays and lost opportunities to act on time-sensitive intelligence. MOI investigators opined that prosecutors and judges have scant knowledge of money laundering or terrorist financing, and need

training.

¶158. (SBU) The MOI, through the Department of National Security (DST), examines charitable entities and NGOs working throughout Senegal. NGOs and charities are required to register with several different Ministries, including the AT-CPEC, the Ministry of Social Affairs, and Ministry of Families, but the MOI has the lead to track and investigate these entities. Ministry officials stated that there may soon be legislation permitting further monitoring of NGOs.

¶159. (SBU) The lack of technology-based tools is a hindrance to the effectiveness of the MOI. Criminals frequently have more technological resources, and there are few computer experts working in the Ministry. While officials are aware that ill-gotten gains could be laundered or could support terrorist financing and criminal activity, their flow information is limited to traditional law enforcement techniques, including informants. At the same time, investigators are generally lacking the knowledge and skills to conduct an effective money laundering investigation resulting in a conviction. Weaknesses include interpreting information, conducting complex investigations, and shepherding the case through the legal process.

TEAM RECOMMENDATIONS - LAW ENFORCEMENT

¶160. (U) Training for law enforcement should include evidence collection, forensics/financial analysis, investigative conduct, basic AML/CFT methods and procedures, and case assembly. Practical, exercise-based, multi-disciplinary training for investigators, police, prosecutors and judges is important so that each facet of the system becomes familiar with the issues and legal challenges of the others. Senegal's Customs service would benefit from specific training on basic Bulk Cash Smuggling (BCS) related to passenger inspections and cargo. This course could also involve the agencies patrolling land borders between POEs and would bolster enforcement efforts at the POEs against laundering via cash couriers. A basic course on targeting outbound cargo for examination could highlight strategies for these operations. Customs, alongside the Ministry of Finance (which oversees the financial transactions involving

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importations and exportations), would both benefit from training addressing TBML. The STA needs specific fiscal examinations or forensic accounting training focusing on income analysis and net worth.

JUDICIAL SYSTEM

¶161. (SBU) The Ministry of Justice (MOJ) is widely perceived to be a key agency, yet the weakest link in Senegal's AML regime. All ministries and organizations visited by the FSAT stated that the MOJ had the least knowledge or experience in the AML/CFT area. Information on approximately fifty potential cases has been transmitted from the CENTIF to the Court of Investigation where they are managed by Investigative Judges, however, to date there have been no prosecutions or convictions for money laundering. Absent ministerial direction, prosecutors have an administrative role and have little involvement with money laundering cases.

¶162. (SBU) An MOJ magistrate is seconded to CENTIF to act as gatekeeper, rendering a legal opinion on cases before the dossier is forwarded to the court. While the predicate offense need not be a conviction, it is a necessary element of the money laundering crime, and the Investigative Judge must investigate the predicate crime that allegedly generated the laundered proceeds. While the law provides for AML cases on any predicate offense, the CENTIF has focused on offenses incorporating narcotics, fraud, and "contraband." The CENTIF can also pursue cases it believes derives from corruption, graft, or misuse of public funds.

¶163. (U) Senegal has a fairly comprehensive asset forfeiture regime. Upon a conviction, if the Court determines that the assets were not the proceeds of or used in the commission of crime, the money/goods are returned; if the assets are determined to have facilitated the crime or been the proceeds of the crime, the goods are transferred

to the Public Treasury; or if the assets are deemed to be hazardous materials are destroyed.

TEAM RECOMMENDATIONS - JUDICIAL SYSTEM

¶64. (SBU) The MOJ is cognizant of the importance of a strong AML/CFT regime, and there has been some AML training organized by the U.S. Embassy and by CENTIF. In general, however, even skillful prosecutors and judges lack the necessary understanding of the overall coordinated nature of AML/CFT. Part of the deficiency is an apparent lack of understanding of the complexity and multi-faceted nature of money laundering and terrorist financing. The MOJ has excellent candidates for multidisciplinary training based upon actual cases and experiences. Such training would include police and gendarmes, as well as prosecutors and judges. Coordinated workshops requiring police, gendarmerie, judges, prosecutors and CENTIF analysts to work together would result in better understanding of each office's responsibilities and lead to better coordination among all.

OTHER ENTITIES

¶65. (U) The FSAT also met with a number of governmental and extra-governmental organizations throughout the week whose missions were indirectly related to AML/CFT: the Inspector General of the State (IG), the Anticorruption Commission, the Forum Civil (a local affiliate of Transparency International), and the local office of the U.N Office for Drugs and Crime (UNODC). These organizations are occupied mainly with corruption issues, with the exception of UNODC, which also has AML/CFT mandates.

¶66. (U) The IG, under Presidential authority, monitors the activities and finances of all government agencies and administrative services, and is designated to conduct reviews of bank accounts of government officials, and investigate matters of waste, fraud and abuse. Investigative missions are initiated at the request of the President, who may then accept the findings and approve further investigation or refer the matter to the judicial authority for action, or terminate the matter.

¶67. (U) The IG is more concerned with corruption and embezzlement

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than with money laundering or terrorist financing, although they recognize parallels. Senegal's IG interacts with IGs in Canada, Djibouti and the European Union, as well as the African Forum of IGs, whose mission statement is to promote good governance and transparency. An information sharing agreement with the IGs of the EU allows requests for the collection and sharing of information in a foreign jurisdiction.

¶68. (U) Senegal's Anticorruption Commission was established by decree in March 2004. Senegal has recently ratified the UN Convention Against Corruption and has had an anticorruption law for almost five years. The Commission's members are interdisciplinary, appointed by the President, and work without compensation. The head of the Commission is a retired former attorney general. The commission's annual budget is determined by the Presidency, significantly limiting its independence and coercive authorities.

¶69. (U) The Commission's priority has been outreach and consciousness-raising. With guidance from WAEMU, the Commission helped draft Senegal's 2007 public procurement law that limits the occasion for sole-source contracts and generally requires an open and competitive bidding process. On the investigative side, the Commission passes dossiers to CENTIF as the legal authority for investigations, and may or may not receive information back. The law does not authorize Commission investigators access to bank or other personal records, although by law, the Commission has recourse to state services to properly conduct its missions.

¶70. (SBU) The Forum Civil (FC) strongly noted its concern about corruption, graft, and the need for good governance measures. The FC also provided input to the new public procurement code and is advising on the implementation of new financial disclosure regulations for all civil servants and Parliamentary members, a

measure supported by related African conventions against corruption and money laundering. The FC also involves the press in corruption issues and has provided investigative journalism training to one hundred journalists. In general, the FC lauded the CENTIF's broad mandate, which allows it to delve into everything from embezzlement to violations of regulations for currency exchange.

¶ 171. (SBU) The UNODC noted concerns about corruption and frustration with the ineffectiveness of the Anticorruption Commission and the FC. Regionally, UNODC has been working with the BCEAO on terrorism financing legislation with the hope that it will be approved within the next six months. The UNODC also works with the CENTIF and provided its computer-based training modules to the FIU as a training aid for obliged entities. UNODC claimed the largest vulnerabilities in Senegal were a lack of inter-agency cooperation in investigations on organized crime and corruption and also weak implementation of asset forfeiture and recovery.

TRAINING CONCLUSIONS

¶ 172. (U) Based on its visit, the FSAT recommends the following training programs be given priority consideration: AML/CTF training for MOJ personnel, judges and prosecutors; AML/CTF financial regulatory training; Financial Investigative Training; enhanced training for the CENTIF; and Bulk Cash Smuggling training.

PRESS REACTIONS AND POST COMMENT

¶ 173. (SBU) Post thanks the FSAT for its visit and hard work and looks forward to coordinating and supporting important training activities that further Senegal's capacity and effectiveness in combating money laundering and terrorism financing. The visit of the FSAT generated a bit of inaccurate local press coverage, which claimed the FSAT included officials from the NSA, CIA, and Transportation Department, and that the goal was to determine if Senegal needed to be "more closely monitored."

¶ 174. (SBU) Institutionally, Senegal has one of the most advanced network of agencies and professionals in the region for addressing money laundering and terrorism financing threats. However, these institutions remain heavily influenced by Senegal's political leadership through appointments, budget allocations, and control of

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interagency coordination (or lack thereof). By establishing one of the first functional FIUs in Africa, Senegal could set a positive example for domestic action and international cooperation on AML/CTF efforts. Therefore, in addition to the provision of training and technical assistance, Washington agencies should look for opportunities to reinforce the message that the CENTIF needs the continued commitment from the Presidency and the Finance Ministry to be adequately funded, supported by other agencies in its investigative efforts, and remain free of political manipulation.

¶ 175. (SBU) Washington agencies should also keep in mind that corruption, graft, and the misuse of public finances remain significant problems in Senegal and threaten the country's economic well-being and political stability.

SMITH